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January 15, 2021

VIA ECF

Honorable Sarah L. Cave
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Isaiah Muhammad v. City of New York and Captain Hernandez,
20-CV-3220 (JPO)(SLC)

Your Honor:

I am an Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney for Defendants City of New York and Captain Hernandez in the above-referenced matter. Defendants write, pursuant to the Court's November 4, 2020 Order, to respectfully update the Court on the status of discovery and to request a 30-day extension of all discovery deadlines in this matter. This is Defendants' first request for an extension of discovery and it is made with Plaintiff's consent.

By way of background, Plaintiff alleges that on April 7, 2020, at the Manhattan Detention Complex, Captain Hernandez sprayed chemical agent through the food slot in Plaintiff's cell, causing Plaintiff to stumble backward, trip, and fall. Fact discovery is scheduled to close on March 3, 2021. ECF No. 17.

On November 2, 2020, Defendants served on Plaintiff their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a), and on November 5, 2020, Defendants served Plaintiff with interrogatories and requests for production of documents pursuant to Federal Rules of Civil Procedure 33 and 34 ("Defendants' Requests"). On November 9, 2020, Defendants served their responses to Plaintiff's document requests and interrogatories pursuant to Rule 33.2 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York.

By letter dated December 16, 2020, Defendants informed Plaintiff that they had not yet received responses to their discovery requests and directed Plaintiff to respond by January 15,

2021.¹ During a January 8, 2021 phone call, Plaintiff stated that he had received Defendants' December 16, 2020 letter and would respond to their requests the following week. As of the date of this writing, the undersigned has not received responses from Plaintiff.

Defendants require Plaintiff's responses to their written interrogatories because, *inter alia*, Defendants require a list of Plaintiff's injuries and medical providers before they depose Plaintiff. Currently, Defendants only possess Plaintiff's medical records from April 8, 2020 to April 10, 2020. However, once Plaintiff's alleged injuries can be ascertained, there will likely be a dispute as to whether Plaintiff's injuries were preexisting, and therefore Defendants require Plaintiff to identify and provide medical releases for all treatment he received in the five years prior to the incident. Upon receipt of those executed releases, Defendants will require time to request those medical records from the relevant medical providers.

Accordingly, Defendants request a 30-day extension of time to complete fact discovery to ensure that there is sufficient time for Plaintiff to respond to Defendants' Requests and for Defendants to obtain documents pursuant to Plaintiff's executed releases. Should Your Honor grant the instant extension request, the discovery deadlines in this matter would be extended as follows:

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Deadline</u>
Deadline to serve subpoenas requesting documents from third parties	February 2, 2021	March 4, 2021
Deadline to depose fact witnesses	March 3, 2021	April 2, 2021
Deadline to serve written expert reports	April 2, 2021	May 3, 2021
Deadline to depose expert witnesses	May 3, 2021	June 2, 2021

Thank you for your consideration in this matter.

¹ On that same date, the undersigned also mailed Plaintiff a courtesy copy of Defendants' Requests.

Respectfully submitted,

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